

APPEAL NO. 041721
FILED AUGUST 25, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 21, 2004. With respect to the issues before him, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and that he did not have disability because he did not sustain a compensable injury. In his appeal, the claimant essentially argues that those determinations are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) argues that the claimant's appeal "fails to meet the minimum requirements of [Section] 410.202(c) and [Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(a)] Rule 143.3(a)." In the alternative, the carrier urges affirmance.

DECISION

Affirmed.

We will consider the adequacy of the claimant's appeal first, as it is jurisdictional. The question here is whether the attack on the hearing officer's decision in the claimant's request for review lacks the specificity required to invoke our jurisdiction. Section 410.202(c) provides as follows:

A request for appeal or a response must clearly and concisely rebut or support the decision of the hearing officer on each issue on which review is sought.

We have held that no particular form of appeal is required, and that an appeal, even though terse and inartfully worded, will be considered. Texas Workers' Compensation Commission Appeal No. 91131, decided February 12, 1992; Texas Workers' Compensation Commission Appeal No. 93040, decided March 1, 1993, and cases cited therein. We have also held that appeals that lack specificity will be treated as attacks on the sufficiency of the evidence. Texas Workers' Compensation Commission Appeal No. 92081, decided April 14, 1992. In the present case, while the claimant's request for review does not argue the specific evidence that constitutes the great weight and preponderance of the evidence contrary to the hearing officer's decision, it does clearly state that the claimant is appealing the hearing officer's adverse determinations regarding compensability and disability. It is, therefore, adequate to invoke our jurisdiction.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on _____. The claimant had the burden of proof on that issue. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). The injury issue presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing

officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n. v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). When reviewing a hearing officer's decision we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

In this instance, the hearing officer determined that the evidence did not establish that the claimant sustained a compensable injury. He determined that the claimant simply was not persuasive in his testimony that he injured his knee unloading a trailer at work on _____. The hearing officer was acting within his province as the fact finder in so finding. Nothing in our review of the record demonstrates that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust; therefore, no sound basis exists for us to reverse the injury determination on appeal. Pool, *supra*; Cain, *supra*.

The 1989 Act requires the existence of a compensable injury as a prerequisite to a finding of disability. Section 401.011(16). Because we have affirmed the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm the determination that he did not have disability.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **OLD REPUBLIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PRENTICE HALL CORPORATION SYSTEM, INC.
800 BRAZOS
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Margaret L. Turner
Appeals Judge